

Applicant(s): P. Bonutti
Application No.: 10/685,117
Examiner: G. Jackson

Remarks

Claims 4, 8-14, 16-18, and 20-38 are pending in this application. Claim 4 has been amended. Claims 36-38 have been added, and claims 5-7 are canceled. Applicant believes the claim amendments and the accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been added.

Allowed Subject Matter

Applicant acknowledges with appreciation that claims 8-14, 16-18, and 20-35 were indicated as being allowed.

Claim Rejections

Claims 4-6 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,665,089 to Dall *et al.* ("Dall"). Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dall in view of U.S. Patent No. 3,807,394 to Attenborough ("Attenborough"). In response, Applicant respectfully submits that these rejections should be withdrawn.

Dall discloses a composite bone fixation device including a cerclage fixation component and a screw fixation component. (abstract). In FIG. 8, two bone plates are positioned against a fractured bone. A cerclage is wrapped around the bone and positioned through channels in the bone plates.

Applicant, on the other hand, discloses and claims a bone suture assembly having first and second rigid bone plates positionable proximate a bone. A suture is connected to the bone plates and is positionable through the bone. A fastener holds the first bone plate to the bone.

Applicant respectfully submits that Dall fails to teach or suggest all the elements of the claimed invention. For example, Applicant's suture is connected to the bone plates and is positionable through the bone. In contrast, Dall's cerclage is wrapped around the bone. Accordingly, Applicant submits that amended claim 4 is patentable over Dall. Applicant also submits that Attenborough fails to overcome the deficiencies of Dall. With respect to claims 5-7, Applicant has canceled these claims and has instead presented new claims 36-38.

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New Claims

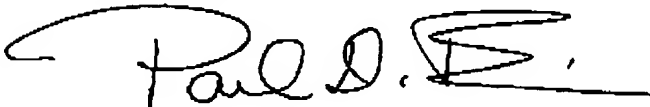
Claims 36-38 have been added to this application. Applicant submits that the new claims are fully supported by the specification with emphasis on FIG. 10. Dependent claim 36 recites, *inter alia*, that the suture is positionable through the fracture of the bone. Applicant contends that Dall teaches a cerclage positionable around, not through, a bone fracture. Dependent claims 37 and 38 recite, *inter alia*, that a bone plate includes a channel which extends between a bone-contacting surface of the plate and a non-bone-contacting surface of the plate. Applicant contends that Dall's channels are structurally different in that they extend generally parallel to a bone-contacting surface of the plate. Based on their dependencies and their patentably distinct claim elements, Applicant submits that the new claims are patentable over the cited art.

Conclusion

In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

No fee is believed to be due. However, please charge any required fees (or credit any overpayment of fees) to the Deposit Account of the undersigned, Account No. 503410 (Docket No. 782-A03-009-3).

Respectfully submitted,



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